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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SAN JOSE
WATER COMPANY (U168W) for an Order
Approving the Sale of the Main Office under
Section 851 and Authorizing the Investment of
the Sale Proceeds under Section 790.

Application 07-01-035
(Filed January 22, 2007)

**ADMINISTRATIVE LAW JUDGE'S RULING
SCHEDULING PREHEARING CONFERENCE**

Summary

This ruling schedules a prehearing conference (PHC) in the above-entitled matter for October 16, 2007, at 10:00 a.m., in the Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California. The PHC is called to determine a new proceeding schedule, identify any changes in the scope of the proceeding, and to discuss other procedural matters.

Background

On September 13, 2007, the assigned Commissioner issued a ruling (ACR) granting, in part, San Jose Water Company's (SJWC) June 25, 2007 Motion for Reconsideration (Motion) of the June 15, 2007 Administrative Law Judge (ALJ) ruling suspending the schedule in this proceeding (Suspension Ruling). The ACR found that Application (A.) 07-01-035 was appropriately filed as required

under § 851.¹ The ACR also found that the property to be sold in the Proposed Transaction is necessary and useful utility property, and any proceeds from the sale of SJWC's main office are not eligible for reinvestment pursuant to § 790. Finally, the ACR lifted the suspension of the schedule in this proceeding, and directed the ALJ to issue a ruling to schedule hearings to address the remaining issues in this proceeding, unless SJWC informed the ALJ in writing by September 21, 2007, that it did not wish to proceed with its Application.

On September 25, 2007, SJWC notified the ALJ via email that it wished to proceed with its Application. SJWC states that during the time that the schedule was suspended in this proceeding, SJWC has made non-refundable down payments of more than \$800,000.00 on the property intended to replace its main office. SJWC recommends that DRA submit its report within two weeks, that SJWC submit any rebuttal testimony two weeks thereafter, and that the parties proceed to hearings one week after that. In response to SJWC's notification, the Division of Ratepayer Advocates (DRA) requests a PHC to discuss a new proceeding schedule, scope, and the need for updating any discovery or testimony.

Discussion

The March 30, 2007 assigned Commissioner's scoping memo and ruling (ACR/Scoping Memo) identified the following issues for consideration in this proceeding:

¹ All statutory references are to the Public Utilities Code unless otherwise indicated.

1. Does Decision 06-05-041 apply to the sale of San Jose Water's main office, and if so, does the application satisfy the requirements of that decision?
2. Does the application (that is, the request for permission to sale) require Commission approval under Pub. Util. Code § 851?
3. Should the Commission find that the main office and/or other real property being sold are no longer necessary or useful?
4. May San Jose Water use the proceeds from the sale of its main office building to acquire a new company headquarter and a walk-in customer service facility in downtown San Jose pursuant to Pub. Util. Code § 790?
5. Should the Commission approve the proposed rate increase resulting from this transaction?
6. Should the Commission approve the proposed rate design for recovering the increased costs resulting from the transaction?

The September 13, 2007 ACR resolves Issues 1 through 4, leaving only Issues 5 and 6 for resolution. The ACR resolves Issue 1 by determining that the Commission retains discretion to review applications for the sale of utility property pursuant to § 851, and D.06-05-041 did not exempt water utilities from this filing requirement. The ACR concludes that the sale of SJWC's main office requires Commission approval under Pub.Util. Code § 851, and in doing so the ACR resolves Issue 2.

The ACR also resolves Issues 3 and 4 when it concludes that SJWC's main office continues to be necessary and useful utility property at the time of sale and for a period of time after the sale, and therefore, the proceeds from the sale of SJWC's main office are not eligible for reinvestment under § 790. Instead, if the sale is approved, the ACR finds that the proceeds from the sale will be allocated

to ratepayers and shareholders according to the “percentage allocation rule.”² Thus, the only remaining issues identified in the ACR/Scoping Memo are, “Should the Commission approve the proposed rate increase resulting from this transaction?” and, “Should the Commission approve the proposed rate design for recovering the increased costs resulting from the transaction?”

According to the ACR/Scoping Memo, as modified by the ALJ ruling of June 1, 2007, DRA was scheduled to file its testimony and report on June 15, 2007. However, the schedule in this proceeding was suspended on that date. Accordingly, with the lifting of the suspension of the schedule in this proceeding, the filing of DRA’s testimony and report is the next event expected to occur in the proceeding schedule.

SJWC recommends that DRA submit its report within two weeks, that SJWC submit any rebuttal testimony two weeks thereafter, and that the parties proceed to hearings one week after that. However, DRA has requested a PHC to discuss a new proceeding schedule, scope, and the need for updating any discovery or testimony.

In light of the ACR’s disposition of several of the issues in this proceeding and other developments occurring in the period since the ACR/Scoping Memo was issued, I believe a PHC is necessary to discuss a new schedule, help determine if any changes in the scope of the proceeding are needed, and discuss other procedural matters. Depending on the outcome of the PHC, a supplemental assigned Commissioner’s ruling may be issued to revise the scope of the proceeding.

² D.06-05-041 (as modified by D.06-12-043), COL 24, OPs 1, 9, 20.

IT IS RULED that a prehearing conference (PHC) is scheduled on October 16, 2007, at 10:00 a.m., in the Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California 94102. The PHC is called to determine a new proceeding schedule, identify any changes in the scope of the proceeding, and to discuss other procedural matters.

Dated October 4, 2007, at San Francisco, California.

/s/ RICHARD SMITH
Richard Smith
Administrative Law Judge

INFORMATION REGARDING SERVICE

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a Notice of Availability of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the Notice of Availability of the filed document is current as of today's date.

Dated October 4, 2007, at San Francisco, California.

/s/ ELIZABETH LEWIS

Elizabeth Lewis